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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

BP3029-H47-P15

First named inventor: **Hwang, Ming**

Application No.: **10/697,934**

Art Unit: **3751**

Filed: **October 31, 2003**

Examiner: **Walczak, David J.**

Title: **Light-emitting pen with pullable covable cover**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ **750** (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ **985**
☒ has been paid previously on **11/18/2004**
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Huang, Ming
Signature

10/19/2005

Date

Huang, Ming

Typed or printed name

P.O.Box 166-13, Taipei, Taiwan

Address

Registration Number, if applicable

886-2-2789-3700

Telephone Number

Address

Enclosures: ☐ Fee Payment

☒ Reply

3 pages of cover letter reply for mailed decision

dated 27 September 2005.

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay **2 pages of proof**

☒ Other: **3 sheets of amended drawings**

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Renewed Petition under 37 CFR 1.137(a)

Christina T. Donnel
Senior Petitions Attorney
Office of Petitions
U.S. Patent and Trademark Office
Application No. 10/697,934
Filed: October 31, 2003
Attorney Docket No. BP3029-H47-P15

Mail stop Petition
Honorable Deputy Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Thanks for your decision dated 27 September 2005, the petitioner knew the facts that the case was allowed on 31 March 2004, and the Examiner had asked the petitioner to amend the drawings at the same time.

Since the petitioner received the reply, he tried to contact the Examiner again but failed, so the petitioner only corrects the drawings comply to the regulations of USPTO, enclosed herewith the Figs. 1 and 2 to add the “prior arts” and the Fig. 10 separated from the Figs. 8, and 9 as different sheet of drawing. If it is not conformed to the amended requirements, please let the petitioner know by E-mailed address : cho0123@ms18.hinet.net or Fax machine: 886-2-2789-3701.

The petitioner elected the “ Petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) ”. Since the petitioner filed the petition on 16 August 2005, he paid the fee US\$ 750.0, and it was described in the page 3 line 18 as “unintentional delayed payment”, it seemed not to file “unavoidable” petition. If permissible, the petitioner expects to request a refund of another extra US\$ 750.0 afterwards. Though the petitioner found the prior petition form is not the same as the petition form as senior attorney provided.

In fact, the petitioner is only one of the same changed address cases shown to the USPTO, it was the prior address “ P.O.Box 82-144 Taipei, Taiwan” in application, but changed the address as “P.O.Box 166-13, Taipei, Taiwan” while paying issue fee or maintenance fee. It is understood that the notice from USPTO must arrived at the former address and then it will be transferred to the latter address.

Unfortunately, the petitioner only received a faxed notice from the

former address a time stamp appeared on the faxed page as: 4 November 2004 11:24, it addressed that the Examiner allowed the case and mailed the notice on 20 October 2004. So the petitioner paid the issue fee and publication fee in November 2004 to the USPTO.

The petitioner called the Examiner by telephone in July. It was known that the payment is delayed but it was encouraged by the Examiner and his colleagues to file a revival petition by the petitioner. Since the changed address is only one proof the petitioner can provide to accompany with the "faxed" page of notice, the petitioner only expects the patent letter can be granted by the USPTO under unintentional not unavoidable causes.

The petitioner clarifies that he could not receive the notice directly from USPTO, so he had to change the address, but it only happened to the cases as the petitioner received the notice from the USPTO or he could know the progress from USPTO websites. While this case is not published on the website, so the petitioner paid the issue fee and publication fee according to only one page of faxed notice indirectly from the USPTO.

Enclosed with the corrected drawings (encl.1, 3 sheets), faxed page of allowance notice (encl.2), and the changed address form as early as dated 26 September 2003 (encl.3) earlier that the case in petition as Application No. 10/697,934 Filed: October 31, 2003. And it is associated with the petitioner as the same address and can refer to the same address

of the same deposit account No. 503459 of Sally Chang and the same customer number 000054826. It can be provided as a proof recorded in the USPTO that at the filing date of the case in petition, the cases of the petitioner or others from the latter address still has to be transferred from the former address, including to file the application but it is going to be changed the address as to pay the issue fee or maintenance fee as required.

The petitioner expects to find the facts and confirmed by the USPTO to grant the delayed payment certificate, he paid the issue fee, publication fee and the petition fee, hopes to clarify the facts that he filed the applications and petitions with credibility. The inventor's credibility and cooperation is required in this revival application. And he provides all the proofs he can find.

Respectfully submitted

Huang, Ming
10/19/2005

P.O.Box 166-13, Taipei

Taiwan, R.O.C.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



NOTICE OF ALLOWANCE AND FEE(S) DUE

7390

9/25/2004

Huang Ming
235 Chung-Ho
Box 8-24
Taipei,
TAIWAN

EXAMINER

WALCZAK, DAVID J

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 10/20/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION
10/697,934	10/31/2003	Huang Ming	BP3029-H47-P15	8938

TITLE OF INVENTION: Light-emitting pen with pullable cover

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$685	\$300	\$985	12/25/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR A PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.